

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1327 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

VIMAL INDUSTRIES

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioner

MR. K.T. DAVE, AGP, for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 23/06/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner has challenged the order of confiscation passed by the authorities under Section 6A of the Essential Commodities Act ('Act' for short) and the order passed by the appellate authority under Section

6C of the Act.

2. The petitioner was holding licence for manufacturing groundnut oil as well as licence for a wholesaler in groundnut oil. On 29.7.1986 officers of the Civil Supply Department carried out inspection at the petitioner's premises and found certain serious irregularities. Some of the irregularities were as under:-

- (i) That the petitioner had maintained stock register as wholesaler on 26.7.1986. The stock received by the petitioner on 24.7.1986 (9000 kgs groundnut) was not included in the stock register nor was it found at the time of inspection. The stock of groundnut oil found at the time of inspection was the one manufactured and hence the petitioner had disposed of 39324 kgs. of groundnut illegally and without disclosing in the relevant record.
- (ii) The petitioner had entered into transactions of sales and purchase but the same were not reflected in the register so as to manipulate the record subsequently.
- (iii) Earlier on 18.6.1986 the Supply Inspector, Junagadh had seized 69 tins (1024 kgm) of groundnut oil. Out of that the petitioner had disposed of groundnut oil on 19.6.1986 without permission of the authority.
- (iv) At the time of inspection, the board outside the petitioner's premises did not display groundnut oil and price.

On noticing the above irregularities, the Civil Supply Officer seized groundnut oil to the extent of 3717 kgs. under the retailer's licence and 9029 kgs. under the manufacturer's licence. Show cause notice was given to the petitioner. After considering the reply and after considering the submissions at the time of hearing, the Collector, Junagadh, held that the petitioner was guilty of most of the irregularities and passed the order for confiscating 8723 kgs. out of the seized quantity of 12746 kgs. of the groundnut oil.

3 The said order dated 25.7.1986 under Section 6A of the Act was carried in appeal before the State Government under Section 6C of the Act. While confirming the finding given by the Collector, the State Government

vide order dated 6.7.1988 modified the order of confiscation by reducing the quantity to be confiscated to 50% of the quantity ordered to be confiscated by the Collector with the result that only about 4400 kgs. of groundnut oil came to be confiscated.

The petitioner has challenged the aforesaid order of the appellate authority.

4. The learned counsel for the petitioner sought to challenge the findings of the authorities by making an attempt to reappreciate the evidence. In this petition under Article 226 of the Constitution, it is not within the province of this Court to sit in appeal over the decision of the authority and reappreciate the evidence. The Collector as well as the appellate authority have carefully considered the explanation offered by the petitioner and found that the petitioner did commit irregularities, some of which were very serious. It is, therefore, not possible to interfere with the said findings of fact. Moreover, as per the order of the appellate authority what is confiscated is only about 30% of the groundnut oil which was seized at the relevant time. The petition was admitted and no interim relief was granted as the order has been acted upon. The Court sees no reason to interfere with the order of the appellate authority.

5. The petition is accordingly dismissed. Rule is discharged with no order as to costs.

(M.S. SHAH, J)

(pkn)